IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 20TH NOVEMBER 2006 / 29TH KARTHIKA 1928

WP(C).No. 19124 of 2006(B)

PETITIONER:

DAISY LUKOSE,
D/O.LUKOSE,(WORKING AS WOMAN HEAD CONSTABLE-WHC-4564, OFFICE OF THE DY SUPERINTENDENT OF POLICE, PUNALUR) RESIDING AT SANU DALE, CHENGAMANAD P.O.,KOTTARAKARA, KOLLAM DISTRICT.

BY ADV. SRI.P.A.NOOR MUHAMMED
SRI.C.K.PRASAD
SRI.VIKANTH K.PUTHUMANA

RESPONDENTS:

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1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY,
GOVT SECRETARIAT, THIRUVANANTHAPURAM.

2. DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS,
THIRUVANANTHAPURAM.

3. THE VIGILANCE DIRECTOR,
VIGILANCE HEAD QUARTERS,
THIRUVANANTHAPURAM.

4. THE SUPERINTENDENT OF POLICE,
KOLLAM.

5. MR.GOPALAKRISHNAN, HC 3255,
HEAD CONSTABLE,
OFFICE OF THE CIRCLE INSPECTOR OF POLICE,
KOTTARAKARA.

6. MR.NANDANAN PILLAI,
CIRCLE INSPECTOR OF POLICE,
KOTTARAKARA.

7. MR.JAYAKUMAR,
CIRCLE INSPECTOR OF POLICE,
EZHUKONE.

R1 TO 4 BY GOVERNMENT PLEADER SHRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K. DENESAN, J.

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W.P.(C) No. 19124 OF 2006 B
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Dated this the 20th November, 2006

J U D G M E N T

The petitioner belongs to the cadre of Woman Head Constable. Presently she is attached to the office of the Deputy Superintendent of Police, Punalur. Apart from respondents 1 to 4, who respectively are the State of Kerala, represented by the Chief Secretary, the Director General of Police, the Vigilance Director and the Superintendent of Police, three other officers of the Police Department have been impleaded eo nominee. The prayer made in this writ petition is for a writ of certiorari quashing Exts. P3, P7, P9 and P12.

2. Ext. P3 is memo dated 19-1-2006 issued by the 6th respondent who is the Circle Inspector of Police, Kottarakkara directing the petitioner to show cause why action should not be taken against her for certain misconducts alleged to have been committed by her. Ext. P7 is another memo issued by the Circle Inspector of Police, Ezhukone directing the petitioner to show cause why disciplinary action should not be taken against her for absenting from duty without giving

prior intimation to any of the members of the staff of the police force. Ext. P9 is the memo of charges issued by the Circle Inspector of Police, Kadakkal directing the petitioner to submit her explanation or written statement of defence within the time stipulated therein. Ext. P12 is yet another memo issued by the Circle Inspector of Police, Kottarakkara on 31-5-2006 directing her to show cause why action should not be taken against her holding her responsible for the missing of certain important case files. It appears that the petitioner has filed explanations against the show cause notices and the memo of charges issued to her.

3. The petitioner has made allegations against the respondents imputing charges of corruption and commission of other unlawful acts. It appears that the petitioner has been filing complaints before various authorities as though she is the victim of the acts of her superiors.

4. Respondents 1 to 4 have filed a statement as directed by this Court.

5. The statement thus filed reveals that the

representation submitted by the petitioner was got enquired into by the Deputy Superintendent of Police, Punalur and it was found that the allegations levelled by the petitioner against her superior officers were untrue and baseless. Ext. P1 mass representation which was signed by certain persons and submitted before the Chief Minister was also received by the Circle Inspector of Police, Kottarakkara who made enquiries into the truth of the allegations contained therein. The enquiry revealed that there was no truth in the statements contained in the mass representation. A report had already been forwarded to the Chief Minister through proper channel in that behalf.

6. Paragraph 3 of the statement refers to Crime No. 1145/04 registered by the Kottarakkara Police and Crime No. 275/05 registered by the police as per directions issued by the Judicial First Class Magistrate Court, Kottarakkara on private complaint filed by the party. It is stated that a series of lapses were noticed in the discharge of official duties by the petitioner in connection with the investigation and further action taken pursuant to the crime cases

registered for various offences. The circumstances under which memo of charges were issued to the petitioner have been referred to in paragraphs 4 and 5 of the statement.

7. In paragraph 8 of the statement it is stated that all the petitions shown as Exts. P1, P5, P6 and P11 were got enquired into by the Deputy Superintendent of Police, Punalur and that the enquiry report revealed that there was no truth in the allegations made by the petitioner. A report to the above effect was filed before the 2nd respondent-Director General of Police. According to the respondents, this writ petition is a clever attempt to see that the petitioner escapes from the clutches of the disciplinary proceedings initiated against her. Reference is made to the proceedings taken by the Human Rights Commission also in respect of the matters connected with Crime No. 275/05 of Kottarakkara Police Station.

8. The petitioner has filed a reply affidavit contending that the statements made by respondents 1 to 4 are incorrect and that she is really aggrieved by the actions of the respondents. Thereafter, the petitioner

has filed two more charge memos, Exts. P17 and P19 served on her during the pendency of this writ petition. It appears that the petitioner has filed her explanation to the memo of charges. An application has been filed seeking to amend the writ petition so as to incorporate two more prayers as follows: "To call for the records and issue a writ of certiorari quashing Ext. P19" and for a direction to the 1st respondent "to see that the grievances highlighted by the petitioner in her complaints, viz., Exts. P2, P5, P11 and P14 are comprehensively enquired into by a sitting or retired judicial officer and to take appropriate action against the erred/erring officials."

9. Heard counsel for the petitioner and the Govt. Pleader for respondents 1 to 4. In the nature of the order I propose to pass I do not consider it necessary to issue notice to respondents 5 to 7 or to afford an opportunity of being heard to them at this stage.

10. The petitioner has approached this Court seeking to interfere with the show cause notices and memo of charges issued to her. This Court will be loathe to interfere with such proceedings so

as to interdict the competent authorities from completing the proposed action in accordance with law. The reason for the petitioner to approach this Court at this premature stage is that she apprehends that she will not get justice at the hands of her superior officers. On the other hand, the respondents say that the petitioner has been indulging in indisciplined conduct and therefore appropriate action had to be initiated against her. It is stated that there is no truth in the allegations made by the petitioner against her superior officers.

11. I do not consider it proper to exercise the jurisdiction of this Court under Article 226 of the Constitution of India to examine the correctness of the facts averred in the writ petition for the purpose of quashing the impugned show cause notices or the memo of charges. It is difficult to assume that the petitioner will not get justice from any of the respondents at all. The very fact that the complaints made by her as also the mass petition were got enquired into and necessary reports were called for by the higher authorities including the Hon'ble Chief Minister

would show that the petitioner's apprehension that she will not get justice from respondents 1 and 2 is without any basis. Even assuming that the Officers at the district level are not maintaining good relationship with her, there is no reason to think that the 2nd respondent who is the Head of the Department or for that matter the Govt. of Kerala which is at the helm of affairs is interested in taking vindictive action against the petitioner. Hence, I am not inclined to allow the prayer to quash the impugned notices and the memo of charges.

12. The petitioner has made a request to conduct an enquiry by a sitting or retired judicial officer into the allegations made by her. Counsel for the petitioner submits that if the Government is prepared to order such an enquiry, not only the allegations made by the petitioner but the allegations against her also, can be made the subject matter of such enquiry.

13. It is seen that the petitioner has not made any such request before the Government. This Court need not consider a prayer for the issuance of a writ of mandamus directing the authorities to do or to

refrain from doing something, unless the petitioner has approached the Government with such a prayer. Hence, without prejudice to the right of the petitioner to approach the Government with such prayers, if so advised, this writ petition is dismissed.

K.K. DENESAN
JUDGE

jan/-